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CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 706

Introduced by Assembly Member Leno

(Coauthors: Assembly Members Bass, Berg, Brownley, DeSaulnier, Hancock, Hayashi, Huffman, Jones, Lieber, Ruskin, and Swanson)

February 22, 2007

An act to amend Sections 125.9, 19161, and 19161.3 of, and to add Section 19161.7 to, the Business and Professions Code, and to add Chapter 12 (commencing with Section 108950) to Part 3 of Division 104 of the Health and Safety Code, relating to fire retardants.

LEGISLATIVE COUNSEL'S DIGEST

AB 706, as amended, Leno. Fire retardants.

Existing law, the Home Furnishings and Thermal Insulation Act, requires all mattresses and box springs manufactured for sale in this state to be fire retardant, as defined to meet the federal standards for

resistance to open-flame test, and authorizes the Bureau of Home Furnishings and Thermal Insulation to adopt regulations to implement those standards. The act requires other bedding products to comply with regulations adopted by the bureau specifying that those products be resistant to open-flame ignition, requires all seating furniture to be fire retardant and labeled as specified, and, except as specified, requires all flexible polyurethane foam offered for retail sale to be fire retardant. The bureau has adopted, by regulation, a flame retardance test of the filling materials of residential upholstered furniture.

Commencing July 1, ~~2009~~ 2010, this bill would require all seating furniture, mattresses, box springs, mattress sets, futons, and other bedding products to comply with certain requirements, including that they not contain a chemical or component not in compliance with the alternatives assessment requirements described below, or that has been prohibited or restricted from use in the product, ~~and that the product be labeled as specified.~~ The bill would exempt from the requirement that bedding products be resistant to open-flame ignition those products for which the bureau finds that resistance to open-flame ignition cannot be achieved without using those prohibited chemicals or components. The bill would require seating furniture and retail polyurethane foam to comply with bureau regulations specifying the degree of fire or flame retardance. Also, commencing July 1, 2009, the bill would require residential upholstered furniture offered for sale in this state to meet or exceed a specified cigarette ignition resistance standard instead of a flame retardance test of the filling materials, unless exempted by the bureau. *The bill would require all seating furniture, mattress sets, futons, and other bedding products to be labeled with a permanent label attachment, as specified, commencing July 1, 2009.*

Commencing ~~January~~ July 1, 2010, this bill would require the Department of Toxic Substances Control to develop and adopt a methodology, and to utilize that methodology in consultation with the Office of Environmental Health Hazard Assessment and any other designated agency, for the coordination and conduct of an alternatives assessment to review the life cycle impacts of components, chemicals, or classes of chemicals used to meet the fire retardancy standards set by the bureau. The bill would authorize the department to adopt regulations in consultation with the chief of the bureau that prohibit or limit the use of a component, chemical, or class of chemicals in the products under the jurisdiction of the bureau, if it determines through the alternatives assessment that the component, chemical, or class of

chemicals is of high concern for human, animal, or environmental health. Commencing January 1, 2015, the bill would require any component or chemical used to meet the fire retardancy standards set by the bureau to first be certified by the Director of Toxic Substances Control to be in compliance with the alternatives assessment requirements. The bill would require the Department of Toxic Substances Control to maintain a list of certified components and chemicals and to provide that list to the bureau, and would require the bureau to post that list on its Internet Web site. Beginning on ~~January~~ July 1, 2010, the bill would require the department, in consultation with the Office of Environmental Health Hazard Assessment and any other designated agency, to commence an alternatives assessment of brominated fire retardants and chlorinated fire retardants used to meet the fire retardancy standards of the bureau. The bill would provide that moneys in the Bureau of Home Furnishings and Thermal Insulation Fund shall be available, upon appropriation by the Legislature, to the department to implement these provisions.

This bill would include legislative findings, and would make a related change involving the assessment of administrative fines pursuant to the Home Furnishings and Thermal Insulation Act.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. This act shall be known, and may be cited, as the
- 2 “Crystal Golden-Jefferson Fire Prevention Act.”
- 3 SEC. 2. The Legislature finds and declares all of the following:
- 4 (a) California has been a world leader in fire safety standards
- 5 for furniture since the early twentieth century. A construction
- 6 standard for mattresses developed by the California Bureau of
- 7 Home Furnishings and Thermal Insulation and by the mattress
- 8 industry has been adopted as a national standard by the United
- 9 States Consumer Product Safety Commission.
- 10 (b) Maintaining or exceeding the current level of fire safety
- 11 provided by California’s furniture standards is important to the
- 12 safety of our residents and our firefighters. Furniture provides a
- 13 ~~major~~ fuel source in residential fires and, if ignited, can accelerate
- 14 the onset of flashover, which is the point at which nearly all
- 15 combustible material in an enclosed area simultaneously ignites.

1 Preventing or delaying flashover and preventing fires that start in
2 furniture through fire safety standards saves lives. California should
3 continue its leadership in furniture fire prevention and safety.

4 (c) In recent years research has revealed that some fire retardant
5 chemicals are dangerous to human, animal, and environmental
6 health. Organobromide and organochloride chemicals known as
7 brominated fire retardants (BFRs) and chlorinated fire retardants
8 (CFRs) are widely used in California. To meet our fire safety
9 standards, many manufacturers add BFRs and CFRs to the flexible
10 polyurethane foam used in residential furniture *and children's*
11 *products*.

12 (d) Some fire retardants migrate in air, soil, or water, and
13 accumulate in people's bodies and the environment. For example,
14 polybrominated diphenyl ethers (PBDEs), which are a subcategory
15 of BFRs, have increased more than forty-fold in human breast milk
16 in America since the 1970s. Women in North America on average
17 have 10 times the levels of women in Europe or Asia. PBDEs have
18 the potential to disrupt thyroid hormone balance and contribute to
19 a variety of developmental deficits, including low intelligence and
20 learning disabilities. PBDEs are structurally similar to dioxin,
21 furans, and polybrominated biphenyls, which are known to cause
22 cancer.

23 (e) According to an American Public Health Association
24 Consensus Resolution, virtually all organochlorides that have been
25 studied exhibit one or more serious toxic effects, including
26 endocrine dysfunction, developmental impairment, birth defects,
27 reproductive dysfunction, immunosuppression, and cancer, often
28 at extremely low doses. Organobromides are known to exhibit
29 similar effects, and the American Public Health Association has
30 resolved that the organobromides known as PBDEs should be
31 phased out of all products.

32 (f) Recent studies indicate that BFRs and CFRs have migrated
33 into the environment, and have been detected at high concentrations
34 in fish, as well as marine mammals, including, but not limited to,
35 dolphins and harbor seals, indicating that the chemicals are already
36 bioaccumulating in the food chain and in marine wildlife. Fish and
37 meat consumption are partly responsible for increasing levels of
38 some BFRs and CFRs in humans.

39 (g) Apart from the toxic effects in humans and animals from
40 direct exposures, these chemical substances have been disposed

1 of in ways that contaminate soils, groundwater, sediment, ambient
2 air, and natural ecosystems.

3 (h) According to the federal Centers for Disease Control and
4 Prevention, infants and children are particularly prone to absorb
5 BFRs and CFRs through direct physical or oral contact with these
6 compounds in furniture, inhalation of furniture dust containing
7 BFRs and CFRs, and via ingestion of these substances from their
8 mothers' milk and from their diets.

9 (i) Rates of pediatric health problems, such as leukemia and
10 brain cancer in children, testicular cancer in adolescents, birth
11 defects, and neurodevelopmental disorders, including, but not
12 limited to, dyslexia, mental retardation, attention
13 deficit/hyperactivity disorder (ADHD), and autism, are steadily
14 rising.

15 (j) Over the last 30 years, there have been hundreds of scientific
16 journal articles and reviews citing these and other negative health
17 impacts resulting from exposure to brominated and chlorinated
18 fire retardants.

19 (k) Utilizing existing technologies in both chemical fire
20 retardants and in construction techniques, the mattress and
21 institutional furniture industries have achieved a higher level of
22 fire safety without the use of BFRs and CFRs. Updating California
23 statute and regulation will enable the residential furniture ~~industry~~
24 *and juvenile products industries* to do the same.

25 (l) A 2003 study at Umeå University in Sweden found that
26 brominated fire retardants efficiently convert into dioxins and
27 furans when they combust after just seconds of delayed flame
28 ignition. Dioxins and furans have been designated by the National
29 Toxicology Program of the United States Department of Health
30 and Human Services as known human carcinogens and, in the case
31 of dioxins, contact with skin is a primary route of human exposure.

32 (m) A 2006 study published in the Journal of Occupational and
33 Environmental Medicine found that firefighters have a probable
34 cancer risk for multiple myeloma, non-Hodgkin's lymphoma,
35 prostate cancer, and testicular cancer. Eight additional cancers also
36 were found to have a possible occupational link to firefighting.
37 The presence of carcinogenic chemical byproducts in soot and
38 smoke, such as dioxins and furans created when brominated fire
39 retardants burn, are considered the probable source of workplace
40 cancer risks for firefighters.

(n) On July 20, 2005, a Los Angeles County Fire Department firefighter named Crystal Golden-Jefferson passed away from workplace related non-Hodgkin's lymphoma. She was a single mother and a dedicated paramedic firefighter with 19 years of service to the people of Los Angeles County. While the cause of Crystal Golden-Jefferson's cancer can not be definitively linked to dioxin exposure, dioxins are known to cause non-Hodgkin's lymphoma, and Crystal Golden-Jefferson was regularly exposed to soot and smoke in her work.

(o) In naming this act, it is the intent of the Legislature to honor Crystal Golden-Jefferson and other firefighters who, like her, have lost their lives due to toxic chemical exposure and workplace related cancers. Removing from furniture *and children's products* chemicals that convert into carcinogenic dioxins and furans during fires can reduce work place exposures and cancer risk for firefighters who bravely sacrifice their lives so that others may live.

(p) With technologically and economically feasible alternatives that provide equivalent or superior fire retardancy, it is not prudent to continue to use BFRs and CFRs in furniture, mattresses, bedding, and children's products without a comprehensive assessment of their impact. In order to protect public health, worker and firefighter safety, wildlife, and the environment, the Legislature finds that it is necessary to evaluate the use of brominated and chlorinated fire retardants in furniture, mattresses, bedding, and children's products using a thorough alternatives assessment process to determine the safest methods to maintain and expand fire safety in California.

SEC. 3. Section 125.9 of the Business and Professions Code is amended to read:

125.9. (a) Except with respect to persons regulated under Chapter 11 (commencing with Section 7500), and Chapter 11.6 (commencing with Section 7590) of Division 3, any board, bureau, or commission within the department, the board created by the Chiropractic Initiative Act, and the Osteopathic Medical Board of California, may establish, by regulation, a system for the issuance to a licensee of a citation that may contain an order of abatement or an order to pay an administrative fine assessed by the board, bureau, or commission if the licensee is in violation of the applicable licensing act or any regulation adopted pursuant thereto.

1 (b) The system shall contain the following provisions:

2 (1) Citations shall be in writing and shall describe with
3 particularity the nature of the violation, including specific reference
4 to the provision of law determined to have been violated.

5 (2) Whenever appropriate, the citation shall contain an order of
6 abatement fixing a reasonable time for abatement of the violation.

7 (3) Except as provided in paragraph (4), in no event shall the
8 administrative fine assessed by the board, bureau, or commission
9 exceed five thousand dollars (\$5,000) for each inspection or each
10 investigation made with respect to the violation, or five thousand
11 dollars (\$5,000) for each violation or count if the violation involves
12 fraudulent billing submitted to an insurance company, the Medi-Cal
13 program, or Medicare. In assessing a fine, the board, bureau, or
14 commission shall give due consideration to the appropriateness of
15 the amount of the fine with respect to factors such as the gravity
16 of the violation, the good faith of the licensee, and the history of
17 previous violations.

18 (4) In the case of any violation pursuant to Chapter 3
19 (commencing with Section 19000) of Division 8, in no event shall
20 the administrative fine assessed by the bureau exceed twenty-five
21 thousand dollars (\$25,000) for each inspection or each investigation
22 made with respect to the violation, or five thousand dollars (\$5,000)
23 for each violation or count. In assessing a fine, the bureau shall
24 give due consideration to the appropriateness of the amount of the
25 fine with respect to factors such as the gravity of the violation, the
26 good faith of the licensee, and any history of previous violations.

27 (5) A citation or fine assessment issued pursuant to a citation
28 shall inform the licensee that if he or she desires a hearing to
29 contest the finding of a violation, that hearing shall be requested
30 by written notice to the board, bureau, or commission within 30
31 days of the date of issuance of the citation or assessment. If a
32 hearing is not requested pursuant to this section, payment of any
33 fine shall not constitute an admission of the violation charged.
34 Hearings shall be held pursuant to Chapter 5 (commencing with
35 Section 11500) of Part 1 of Division 3 of Title 2 of the Government
36 Code.

37 (6) Failure of a licensee to pay a fine within 30 days of the date
38 of assessment, unless the citation is being appealed, may result in
39 disciplinary action being taken by the board, bureau, or
40 commission. If a citation is not contested and a fine is not paid,

1 the full amount of the assessed fine shall be added to the fee for
2 renewal of the license. A license shall not be renewed without
3 payment of the renewal fee and fine.

4 (c) The system may contain the following provisions:

5 (1) A citation may be issued without the assessment of an
6 administrative fine.

7 (2) Assessment of administrative fines may be limited to only
8 particular violations of the applicable licensing act.

9 (d) Notwithstanding any other provision of law, if a fine is paid
10 to satisfy an assessment based on the finding of a violation,
11 payment of the fine shall be represented as satisfactory resolution
12 of the matter for purposes of public disclosure.

13 (e) Administrative fines collected pursuant to this section shall
14 be deposited in the special fund of the particular board, bureau, or
15 commission.

16 SEC. 4. Section 19161 of the Business and Professions Code
17 is amended to read:

18 19161. (a) All mattresses and mattress sets manufactured for
19 sale in this state shall be fire retardant. "Fire retardant," as used in
20 this section, means a product that meets the standards for resistance
21 to open-flame test adopted by the United States Consumer Product
22 Safety Commission and set forth in Part 1633 of Title 16 of the
23 Code of Federal Regulations. The bureau may adopt regulations
24 it deems necessary to implement those standards.

25 (b) All other bedding products that the bureau determines
26 contribute to mattress bedding fires shall comply with regulations
27 adopted by the bureau specifying that those products be resistant
28 to open-flame ignition, except in the case that the bureau finds that
29 resistance to open-flame ignition cannot be achieved without using
30 components or chemicals prohibited pursuant to Section 19161.7.

31 (c) All seating furniture sold or offered for sale by an importer,
32 manufacturer, or wholesaler for use in this state, including any
33 seating furniture sold to or offered for sale for use in a hotel, motel,
34 or other place of public accommodation in this state, and
35 reupholstered furniture to which filling materials are added, shall
36 comply with the regulations adopted by the bureau specifying the
37 degree of fire or flame retardance, shall be labeled in a manner
38 specified by the bureau, and shall comply with Sections 19161.7
39 and 108951 of the Health and Safety Code. This does not include

1 furniture used exclusively for the purpose of physical fitness and
2 exercise.

3 (d) Regulations adopted by the bureau for other bedding
4 products shall not apply to any hotel, motel, bed and breakfast,
5 inn, or similar transient lodging establishment that has an automatic
6 fire extinguishing system that conforms to the specifications
7 established in Section 904.1 of Title 24 of the California Code of
8 Regulations.

9 SEC. 5. Section 19161.3 of the Business and Professions Code
10 is amended to read:

11 19161.3. All flexible polyurethane foam in the form of slabs,
12 blocks, or sheets, or which is shredded (loose or packaged), except
13 polyurethane foam sold for use as carpet underlayment and
14 polyurethane foam which cannot reasonably be expected to be
15 used in or as an article of furniture or a mattress, that is offered
16 for sale to the general public at retail outlets in this state for
17 noncommercial or nonmanufacturing purposes, shall comply with
18 the regulations adopted by the bureau specifying the degree of fire
19 or flame retardance. At the discretion of the bureau, fire or flame
20 retardance may be provided by construction methods or other
21 means specific to the product in which the flexible polyurethane
22 foam is intended to be used.

23 SEC. 6. Section 19161.7 is added to the Business and
24 Professions Code, to read:

25 19161.7. (a) The following definitions shall apply for purposes
26 of this section:

27 (1) "Brominated fire retardant" means an organobromine
28 chemical or organobromide used as a fire or flame retardant. It
29 does not include inherently fire or flame resistant fiber used in
30 seating furniture, mattresses, or other bedding products.

31 (2) "Chlorinated fire retardant" means an organochlorine
32 chemical or organochloride used as a fire or flame retardant. It
33 does not include inherently fire or flame resistant fiber used in
34 seating furniture, mattresses, or other bedding products.

35 (3) "Inherently fire or flame resistant fiber" means a polymeric
36 fiber or mixture of polymeric fibers, where one or more fibers is
37 comprised of a polymer with covalently attached fire retarding
38 chemical groups built directly into the molecular structure of some
39 or all of the repeating structural units. Nothing in this definition

1 shall be construed to limit the authority of the bureau to prohibit
2 the use of components or chemicals pursuant to subdivision (f).

3 (b) Commencing July 1, ~~2009~~ 2010, all seating furniture,
4 mattresses, box springs, mattress sets, futons, and other bedding
5 products including, but not limited to, pillows, comforters, other
6 filled blanket products, and sleeping bags that are sold or offered
7 for sale by an importer, manufacturer, or wholesaler for use in this
8 state, including any seating furniture, mattresses, box springs,
9 mattress sets, futons, and other bedding products including, but
10 not limited to, pillows, comforters, other filled blanket products,
11 and sleeping bags sold to or offered for sale for use in a hotel,
12 motel, or other place of public accommodation in this state, and
13 reupholstered furniture to which filling materials are added, shall
14 comply with the following:

15 (1) Shall not contain a component or chemical used to meet the
16 fire retardancy standards set by the bureau or statute that is not in
17 compliance with the alternatives assessment requirements of
18 Section 108951 of the Health and Safety Code.

19 (2) Shall not contain a chemical, component, or class of
20 chemicals that has been prohibited or restricted from use in the
21 product pursuant to ~~Sections 108922 and~~ Section 108951 of the
22 Health and Safety Code or any other state or federal law.

23 ~~(3) Shall be labeled with a permanent label attachment in a~~
24 ~~manner specified by the bureau.~~

25 ~~(e) All permanent label attachments required pursuant to~~
26 ~~subdivision (b) shall comply with the following:~~

27 *(c) Commencing July 1, 2009, all products described in*
28 *subdivision (b) shall be labeled with a permanent label attachment*
29 *in a manner specified by the bureau. All permanent label*
30 *attachments required pursuant to this subdivision shall comply*
31 *with all of the following:*

32 (1) Use plain language understandable to consumers, and in
33 sufficient size as to be readily visible and legible.

34 (2) (A) For products containing less than one one-hundredth of
35 1 percent of brominated fire retardants or chlorinated fire
36 retardants, or both, include the following statement, "DOES NOT
37 CONTAIN HALOGENATED FIRE RETARDANTS."

38 ~~(3)~~

39 (B) For products containing one one-hundredth of 1 percent or
40 more of brominated fire retardants or chlorinated fire retardants,

1 or both, include the following statement, “CONTAINS
2 HALOGENATED FIRE RETARDANTS.”

3 ~~(4)~~

4 (3) Include other markings or language specified by the bureau.

5 (d) (1) Beginning on July 1, 2009, Technical Bulletin 117 is
6 repealed, and all products within the scope of Technical Bulletin
7 117 and offered for sale in this state shall meet or exceed the
8 cigarette ignition resistance standard ASTM E 1353-08a.

9 (2) The bureau may exempt products from the cigarette ignition
10 resistance standard established in paragraph (1) if those products
11 do not represent a significant fire risk.

12 (3) The bureau may update the cigarette ignition resistance
13 standard established in paragraph (1) to improve fire safety or to
14 comply with subsequent federal standards.

15 (4) The bureau shall be responsible for enforcing paragraph (1)
16 and, commencing January 1, 2009, Section 108922 of the Health
17 and Safety Code with respect to the products under the jurisdiction
18 of the bureau.

19 (e) The bureau shall post on its Internet Web site a list of
20 components and chemicals certified by the Director of Toxic
21 Substances Control to be in compliance with alternatives
22 assessment requirements, including any categorizations or use
23 limitations, and excluding any components, chemicals, or classes
24 of chemicals that have been prohibited pursuant to Section 108951
25 of the Health and Safety Code or any other state or federal law.

26 SEC. 7. Chapter 12 (commencing with Section 108950) is
27 added to Part 3 of Division 104 of the Health and Safety Code, to
28 read:

29
30 CHAPTER 12. ALTERNATIVES ASSESSMENT FOR FIRE
31 RETARDANTS
32

33 108950. (a) The following definitions shall apply for purposes
34 of this chapter:

35 (1) “Bioaccumulative” means having a bioconcentration factor
36 or bioaccumulation factor greater than or equal to 500, or if neither
37 is available, having a logarithm octanol-water partition coefficient
38 (log Kow) greater than, or equal to, four.

39 (2) “Brominated fire retardant” means an organobromine
40 chemical or organobromide used as a fire or flame retardant. It

1 does not include inherently fire or flame resistant fiber used in
2 seating furniture, mattresses, or other bedding products.

3 (3) “Bureau” means the Bureau of Home Furnishings and
4 Thermal Insulation.

5 (4) “Chlorinated fire retardant” means an organochlorine
6 chemical or organochloride used as a fire or flame retardant. It
7 does not include inherently fire or flame resistant fiber used in
8 seating furniture, mattresses, or other bedding products.

9 (5) “Department” means the Department of Toxic Substances
10 Control.

11 (6) “Director” means the Director of Toxic Substances Control.

12 (7) “Inherently fire or flame resistant fiber” means a polymeric
13 fiber or mixture of polymeric fibers, where one or more fibers is
14 comprised of a polymer with covalently attached fire retarding
15 chemical groups built directly into the molecular structure of some
16 or all of the repeating structural units. Nothing in this definition
17 shall be construed to limit the authority of the department to
18 prohibit the use of components or chemicals pursuant to
19 subdivision (e) of Section 108951.

20 (8) “Persistent” means having a half-life greater than, or equal
21 to, 40 days in marine or freshwater, 60 days in soil or sediment,
22 or two days in air.

23 (9) “Trade secret” means any formula, plan, pattern, process,
24 tool, mechanism, compound, procedure, production data, or
25 compilation of information that is not patented, that is known only
26 to certain individuals within a commercial concern who are using
27 it to fabricate, produce, or compound an article of trade or a service
28 having commercial value, and that gives its user an opportunity
29 to obtain a business advantage over competitors who do not know
30 or use it.

31 108951. (a) (1) Beginning January 1, 2015, any component
32 or chemical used to ~~the~~ meet the fire retardancy standards set by
33 the bureau shall first be certified by the director to be in compliance
34 with the alternatives assessment requirements of this section. *For*
35 *the purposes of this section and Section 19161.7 of the Business*
36 *and Professions Code, “compliance with the alternatives*
37 *assessment requirements of this section” means that the person*
38 *responsible for manufacture of the component or chemical has*
39 *complied to the satisfaction of the director with requests by the*

1 *department, or any other agency designated by the director, to*
2 *take actions authorized by this section.*

3 (2) The department shall maintain a list of components and
4 chemicals certified by the director pursuant to paragraph (1),
5 including any categorizations or use limitations, and excluding
6 any components, chemicals, or classes of chemicals that have been
7 prohibited pursuant to this section or any other state or federal law.
8 The department shall provide the list to the bureau, and the list
9 shall be posted on the bureau's Internet Web site as required by
10 subdivision (e) of Section 19161.7 of the Business and Professions
11 Code.

12 (b) On or before ~~January~~ July 1, 2010, the department shall
13 develop and adopt, through a transparent and public process, a
14 methodology for the coordination and conduct of an alternatives
15 assessment in compliance with this section to review the life cycle
16 impacts of components, chemicals, or classes of chemicals used
17 to meet the fire retardancy standards set by the bureau.

18 (c) The department, in consultation with the Office of
19 Environmental Health Hazard Assessment and any other agency
20 designated by the director, shall utilize the methodology adopted
21 pursuant to subdivision (b) to coordinate or conduct alternatives
22 assessments of the life cycle impacts of components, chemicals,
23 or classes of chemicals used to meet the fire retardancy standards
24 of the bureau.

25 (d) The alternatives assessment shall include, but not be limited
26 to, all of the following:

27 (1) The ability for the department to assess classes of chemicals
28 determined to have similar or ~~be~~ likely to have similar life cycle
29 impacts based on test data, literature reviews, expert judgment,
30 structure activity relationships, and other modeling techniques.

31 (2) A determination if the component, chemical, or class of
32 chemicals in its manufacture, handling, probable use, combustion,
33 and disposal, is a component or chemical of high concern to human,
34 animal, or environmental health. In this determination the state
35 may use studies, test data, literature reviews, expert judgment,
36 structure activity relationships, and other modeling techniques.

37 (3) If hazard information is not available for endpoint concerns
38 critical for decisionmaking, the ability for the department to require
39 specific test data from the person responsible for manufacture
40 using specified methodologies and at the expense of the person

1 responsible for manufacture *of the component or chemical used*
2 *to meet the fire retardancy standards of the bureau.*

3 (4) An enforceable agreement between the person responsible
4 for manufacture and the state to fully reimburse the state for all of
5 the costs associated with coordination and conduct of the
6 assessment of the life cycle impacts of the component or chemical
7 to be considered. The enforceable agreement shall include, but not
8 be limited to, all of the following:

9 (A) A requirement for the person responsible to disclose all
10 constituent chemicals in the component or chemical to be
11 considered.

12 (B) A requirement to provide available evidence of safety to
13 human, animal, and environmental health in the manufacture,
14 handling, probable use, combustion, and disposal of the component
15 or chemical to be considered.

16 (C) A requirement to complete or cause to be completed
17 research, tests, or other investigations to address endpoint concerns
18 determined by the state.

19 (D) A due date for when the data requested is to be completed.

20 (E) The cost to be reimbursed to the state.

21 (F) A requirement that the state shall protect the trade secrets
22 of the person responsible for manufacture pursuant to Section
23 57020, but this protection does not authorize a person responsible
24 for manufacture to refuse to disclose to the department information
25 required by the alternatives assessment.

26 (5) In determining what endpoint concerns shall be addressed
27 by the person responsible for manufacture, the state shall consider
28 hazard traits, including, but not limited to, each of the following:

29 (A) Mutagenicity and genetic toxicity.

30 (B) Reproductive effects, including reduction in fertility and
31 birth outcomes, including, but not limited to, birth weight.

32 (C) Developmental toxicity, including physical and metabolic
33 birth defects that are present at birth or that manifest later, and
34 effects on development of any kind, including, but not limited to,
35 motor or cognitive effects that result from exposure at any point.

36 (D) Cancer.

37 (E) Immunological effects, including allergic sensitization.

38 (F) Neurological and neurodevelopmental effects.

39 (G) Effects on organs, including, but not limited to, the liver,
40 kidney, eye, blood, and heart.

1 (H) Respiratory effects.

2 (I) Endocrine disruption.

3 (J) Other disruptions or perturbations of signaling and hormone
4 systems.

5 (K) Persistence and bioaccumulation.

6 (L) Toxicity to aquatic organisms or to wildlife.

7 (6) A transparent and public process allowing for the submission
8 to the state of any data relevant to the alternatives assessment ~~or~~,
9 *or to an exemption from alternatives assessment, and for the*
10 submission of a proposal for the use of other available alternatives.

11 This process shall protect trade secrets pursuant to Section 57020.

12 (7) A categorization of the safety of the component, chemical,
13 or class of chemicals to guide manufacturers and consumers toward
14 the use of the least toxic and most environmentally safe
15 components, chemicals, or methods for retarding, inhibiting, or
16 preventing fire or flame ignition or slowing combustion in the
17 products under the jurisdiction of the bureau.

18 (8) Trade secrets of the person responsible for manufacture shall
19 be protected using the process detailed in Section 57020. This
20 section does not authorize a person responsible for manufacture
21 to refuse to disclose to the department information required by the
22 alternatives assessment.

23 (9) *If the director, in consultation with the Office of*
24 *Environmental Health Hazard Assessment, finds that a component*
25 *or chemical is benign and unlikely to have the hazard traits listed*
26 *in paragraph (5) based on test data, literature reviews, expert*
27 *judgment, structure activity relationships, or other modeling*
28 *techniques, the component or chemical may be exempted from the*
29 *alternatives assessment and certified to be in compliance with this*
30 *section.*

31 (10) *The director may rescind an exemption from the*
32 *alternatives assessment, a certification of compliance with this*
33 *section, or both, if an endpoint concern for human, animal, or*
34 *environmental health is identified.*

35 (e) (1) If the department, through the alternatives assessment
36 required by this section, determines that a component, chemical,
37 or class of chemicals used to meet the fire retardancy standards of
38 the bureau is a component or chemical of high concern for human,
39 animal, or environmental health, the department, through a
40 transparent and public process and in consultation with the chief

1 of the bureau, may adopt regulations that prohibit or limit the use
2 of the component, chemical, or class of chemicals in the products
3 under the jurisdiction of the bureau.

4 (2) In making the determination in paragraph (1), the department
5 shall consider all of the following:

6 (A) The human, animal, or environmental hazards determined
7 in the alternatives assessment.

8 (B) The hazards for firefighters and other emergency response
9 personnel exposed to combustion byproducts through smoke, soot,
10 or other workplace-related exposure routes.

11 (C) The hazards for workers in the manufacture, distribution,
12 and disposal of the products under the jurisdiction of the bureau.

13 (D) The best available evidence of the degree of fire safety
14 achieved and the number of burn injuries or fatalities that may be
15 prevented by the use of the component, chemical, or class of
16 chemicals.

17 (E) The availability of alternatives for the component, chemical,
18 or class of chemicals in the products under the jurisdiction of the
19 bureau.

20 (F) The efficacy of other means to reduce burn injuries or
21 fatalities, including, but not limited to, furniture construction
22 standards, existing or expanded limitations on ignition sources,
23 reduction of fuel load, existing or improved electrical or building
24 materials and building standards, and expanded use of fire safety
25 equipment, including sprinkler systems, smoke detectors, and other
26 technologies that might extinguish or warn of the presence of fire.

27 (f) Beginning on ~~January~~ July 1, 2010, the department, in
28 consultation with the Office of Environmental Health Hazard
29 Assessment and any other agency designated by the director, shall
30 commence an alternatives assessment of brominated fire retardants
31 and chlorinated fire retardants used to meet the fire retardancy
32 standards of the bureau. *Notwithstanding paragraph (9) of*
33 *subdivision (d), brominated fire retardants and chlorinated fire*
34 *retardants shall not be exempted from the alternatives assessment.*

35 (g) Moneys in the Bureau of Home Furnishings and Thermal
36 Insulation Fund shall be available, upon appropriation by the
37 Legislature, to the department to pay for the implementation costs
38 of this section that are not reimbursable by the person responsible
39 for manufacture.

1 SEC. 8. The provisions of this act are severable. If any
2 provision of this act or its application is held invalid, that invalidity
3 shall not affect other provisions or applications that can be given
4 effect without the invalid provision or application.

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